

THE CONVERSATION

Academic rigour, journalistic flair

Inside Emmanuel Macron's draconian anti-terrorism law

September 11, 2017 3.47pm BST



Stretching the limits of civil liberties. EPA/Christian Bruna

Author

**Fraser McQueen**

PhD Candidate, University of Stirling

France's National Assembly is soon to debate **counter-terrorism** legislation proposed by Emmanuel Macron's government. This legislation, Macron claims, will enable France to end the **state of emergency** which has been in place since 2015. The state of emergency grants extended powers of repression and surveillance to state authorities; since it was applied, it has been widely criticised as enabling human rights abuses.

Macron has framed his legal project as a response to these criticisms. The new law, he claims, will allow France to protect its citizens from terrorist attacks without compromising their civil liberties. However, it will also mean taking some of the most controversial elements of the state of emergency and inscribing them permanently into the law. Undermining human rights is apparently the new norm, rather than a temporary measure. For all its flaws, the state of emergency was at least never intended to be permanent.

Sweeping powers

Macron's proposal includes granting police the right to place individuals under house arrest without trial, to raid homes and meeting places without consulting a judge, and to forbid public gatherings.

To date, these measures have been **almost exclusively** applied against Muslims. Those targeted often complain that there has been no justification for this beyond the fact that they are "visibly" Muslim.

Such discrimination has been possible because, under the state of emergency, authorities need no solid evidence against individuals to justify measures like raids on their homes. Often, home raids have been justified solely by suspicions reported to the authorities by neighbours – leaving the system vulnerable to both personal vendetta and misguided views of what constitutes evidence of “radicalisation”.

The state has contributed to this confusion by sending out mixed messages on a government website giving advice on when to consider alerting the authorities to an individual. The site accepts that physical appearance and clothing alone are not evidence of radicalisation, but goes on to list both as potential “indicators”.



The state of emergency was originally put in place by former president François Hollande in the wake of the 2015 Paris attacks. EPA

Organisations such as the NGO, Collective Against Islamophobia in France (CCIF), and Human Rights Watch (HRW), have complained of religious profiling. They have been supported by the National Consultative Commission on Human Rights (CNCDH), the French government’s human rights watchdog. France’s human rights Ombudsman has also expressed concern about religious profiling.

To compound this, there have been numerous reports of police misconduct during home raids. By January 2017, 14 months into the state of emergency, the CCIF had received 427 complaints of abuses including excessive force, racist insults, and damage to property. In one case, a six-year-old girl was injured by shrapnel when police officers shot their way into her family’s home. It later transpired that they had been supposed to raid the flat next door.

House arrests have also been used to detain individuals, in some cases for over a year, without bringing them to trial. This implies that there is insufficient evidence against them to do so: to hold

them regardless is contrary to the rule of law.

Such abuses cannot be justified on the basis that they are protecting the public from jihadi terrorism. According to **Amnesty International**, by February 2017 only 0.3% of the 4,551 raids on properties during the state of emergency had led to terrorism-related criminal charges. Even these were often for the crime of “glorification of terrorism” rather than planning attacks. A **parliamentary inquiry** carried out the previous July reached a similar conclusion to Amnesty. It found that the state of emergency had been less effective than already existing counter-terrorism legislation, and should therefore be ended.

A permanent state of emergency

There are differences between the new law and the state of emergency. It will, for example, replace house arrests with less restrictive orders to remain within a given municipality. However, the previous upper limit of 15 months placed upon them will disappear.

The new law, unlike the state of emergency, is also explicitly framed in terms of counter-terrorism. The state of emergency was installed to combat the terrorist threat, but grants the authorities extended powers against anyone considered a threat to “public order”. This allowed them to use these powers to **ban protests** against issues unrelated to terrorism, including employment law reforms. Supporters of the new law claim that it will prevent such abuses, although **jurists argue** that it defines terrorism too vaguely for this to be guaranteed.

It makes no such attempt to prevent religious profiling, implying that Macron’s government does not see it as a problem. The authorities will also retain their right to raid homes without approval from a judge.

This would undermine the human rights of all French citizens, and particularly Muslims.

In addition to NGOs ranging from the CCIF to Greenpeace, the Ombudsman criticised the law on this basis.

Not only is there no evidence that Macron’s proposed new law would help to fight terrorism; in the long term, the religious profiling of Muslims which it seems to validate could contribute to increasing it. **Recent UN research** suggests that social exclusion is an important factor in leading a minority of European Muslims to embrace jihadist ideologies. It notes that this is particularly true when that exclusion includes a “disregard for the rule of law”.

The legal project can, therefore, not be justified on any level. The measures included in it have been shown to be ineffective against terrorism, but will undermine the democratic values often presented as under attack from terrorists. Outside France, Macron has been portrayed as a liberal antidote to right-wing populism. This apparent attempt to exploit public fears of terrorism to permanently increase the state’s repressive powers speaks against that reputation.

Found this article useful? A tax-deductible gift of £20/month helps deliver knowledge-based, ethical journalism.

Make a donation